

United States District Court
Southern District of New York

USDC SDNY
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UNITED STATES OF AMERICA

08 Cr. 409 (JGK)

- against -

ORDER

RAYMOND HERNANDEZ,

Defendant.

JOHN G. KOELTL, District Judge:

The defendant moves to have his Pre-Sentence Report amended to reflect that an arrest in Puerto Rico ultimately resulted in a dismissal. The defendant does not challenge his sentence that was imposed on November 20, 2009, but he contends that the mention of the arrest in the Pre-Sentence Report results in adverse consequences for him in his incarceration by the Bureau of Prisons.

The application is denied. The Court lacks the authority to order the correction of the Pre-Sentence Report, which was issued prior to the sentencing hearing, which occurred about sixteen months ago. See United States v. Giaimo, 880 F.2d 1561, 1563 (2d Cir. 1989). Moreover, the request is moot because the Government advises that the Bureau of Prisons has independently confirmed the dismissal of the arrest charge at issue. If the plaintiff has any issues with any actions of the Bureau of

Prisons, he can raise them in the first instance through the administrative procedures of the Bureau of Prisons.

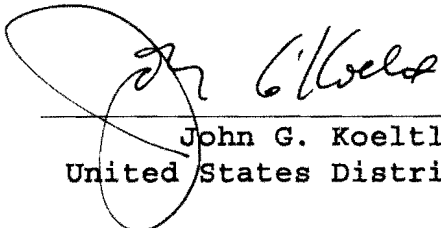
The defendant also request that the Court recommend to the Bureau of Prisons that the defendant be admitted to the intensive substance abuse treatment program of the Bureau of Prisons. This request is denied as moot because the Court already included that recommendation in the Judgment of Conviction.

The defendant also appears to request that the Court recommend that he be sent to a prison camp. The Court leaves such a designation to the Bureau of Prisons, but the Court has already recommended that the defendant be incarcerated in the Yonkers, New York area so that he can be close to his family.

For the reasons explained above, the defendant's motion is denied.

SO ORDERED.

Dated: New York, New York
March 14, 2011



John G. Koeltl
United States District Judge